

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 08-2076 JB

JOSE ISMAEL VERAMONTES-RODRIGUEZ,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendant's Sentencing Memorandum, filed October 3, 2008 (Doc. 18). The Court held a sentencing hearing on October 7, 2008. The primary issue is whether the Court should sentence Defendant Jose Ismael Veramontes-Rodriguez to 63 days, or time served, whichever is less. Because there is no sound reason to hold Veramontes-Rodriguez in custody any longer, the Court will grant his request for a time-served sentence.

PROCEDURAL BACKGROUND

Veramontes-Rodriguez pled guilty on September 9, 2008, to a single-count Information. Veramontes-Rodriguez was charged with Reentry of a Removed Alien contrary to 8 U.S.C. § 1326(a) and (b). In anticipation of final sentencing, the United States Probation Office ("USPO") prepared a Presentence Investigation Report ("PSR"). The PSR recommends a 0 to 6 month sentence, which is treated in this District as a recommendation for a time-served sentence. The USPO provided the PSR to Veramontes-Rodriguez' attorney on September 29, 2008.

Veramontes-Rodriguez' attorney traveled to the Torrence County Detention Center, where Veramontes-Rodriguez is incarcerated, to review the PSR with Veramontes-Rodriguez. The entire

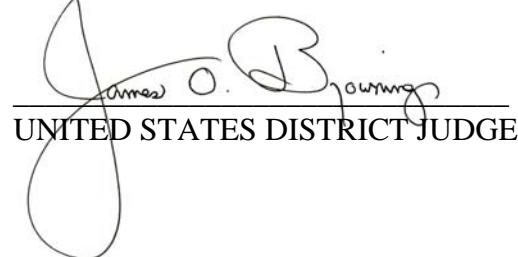
PSR was read to Veramontes-Rodriguez, who understands and speaks English.

Veramontes-Rodriguez has submitted a sentencing memorandum. Veramontes-Rodriguez does not raise any factual objection or raise any legal argument. Veramontes-Rodriguez requests that the Court enter a sentence of 63 days or time served, whichever is less.

ANALYSIS

The Court concludes that a sentence of 63 days or time served, whichever is less, is appropriate under the circumstances. Such a sentence is consistent with the advisory guideline sentence, and appropriately reflects each of the factors in 18 U.S.C. § 3553(a). There is no sound reason to keep Veramontes-Rodriguez in further custody, and the Court will grant his request for a time-served sentence.

IT IS ORDERED that the Defendant's request for a time-served sentence in his Sentencing Memorandum is granted. The Defendant is sentenced to 63 days or time served, whichever is less.



James O. Baiamonte
UNITED STATES DISTRICT JUDGE

Counsel:

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